

**MINUTES**

**OF THE**

**NATURAL RESOURCE COMMISSION**

**MEETING**

**FEBRUARY 8, 2007**

**WALLACE STATE OFFICE BUILDING**  
**DES MOINES, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Natural Resource Commission was called to order by Commissioner Francisco at 8:35 a.m. on Thursday, February 8, 2007 at the Wallace State Office Building, Des Moines, Iowa.

### MEMBERS PRESENT

Janice Marcantonio (by phone)  
Randy Duncan (by phone)  
Richard Kim Francisco  
Carol Kramer  
Lennis Moore

### MEMBERS ABSENT

Joan Schneider  
Elizabeth Garst

### APPROVE AGENDA

Announcement was made that it would be necessary to amend the agenda to include a closed session pursuant to Iowa Code 21.5(j).

*Motion was made by Commissioner Kramer to approve the February 8, 2007 NRC agenda as amended to include the closed session. Seconded by Commissioner Moore. Motion carried unanimously.*

**AGENDA APPROVED**

### APPROVE MINUTES

*Motion was made by Commissioner Moore to approve the minutes of the January 17, 2007 NRC meeting. Seconded by Commissioner Kramer. Motion carried unanimously.*

**MINUTES APPROVED**

### DIRECTOR'S REMARKS

Director Leopold distributed a report of the Sustainable Funding Working Group, along with a disk containing the power point presentations. The report has been given to the legislature and the Governor's Office. Mr. Leopold said the Sustainable Funding Committee has been

authorized by legislative leadership to continue meeting and mandated to have the final report and recommendations by March 1. He reviewed the different funding mechanisms and various proposals discussed and noted that meetings have been held with legislative committees. Leopold explained that there is no legislation yet, but a lot of people are talking about sustainable funding. He encouraged the commissioners to continue talking about it too. He added that there could be many benefits to the DNR from sustainable funding--\$150 million for at least the next ten years for natural resources spending.

Mr. Leopold reported that he has been spending a lot of time in the legislature and meeting with the Governor's staff on several issues. He said that while it is early in the session, it is expected that many bills will be introduced.

## CONSTRUCTION PROJECTS

Linda Hanson, Administrator, Management Services Division, presented the following item.

Bids were opened January 17, 2007 for the following projects:

### **Ventura Access – Harbor Inn Area, Cerro Gordo County – Facility Development**

The work consists of the construction of a unisex, pre-cast concrete restroom and a 20 foot by 24 foot shelter. The work also includes some concrete sidewalk paving, and incidental work as required by the Plans and the DNR Construction Inspector. Project is budgeted 100% in Iowa Natural Heritage Foundation funds. DNR estimate is \$85,000. Ten sets of Plans were issued. Six bids were received.

Todd Hanson, dba Hanson Construction	Clear Lake, IA	\$ 73,399.93
Larry Elwood Construction, Inc.	Mason City, IA	\$ 78,998.11
Sabel Petersen Builders, Inc.	Mason City, IA	\$ 90,766.00
Matt Construction, Inc.	Sumner, IA	\$ 99,198.00
Mid-Continent Contracting, Inc.	Mason City, IA	\$130,243.00
Dean Snyder Construction Co., Inc.	Clear Lake, IA	\$145,962.73

Staff recommends award of a contract to Todd Hanson, dba Hanson Construction, low bidder.

*Motion was made by Commissioner Kramer to approve the low bid of Todd Hanson, dba Hanson Construction of Clear Lake, Iowa in the amount of \$73,399.93 for facility development at Ventura Access, Harbor Inn Area in Cerro Gordo County. Seconded by Commissioner Moore. Motion carried unanimously.*

**CONSTRUCTION PROJECT APPROVED**

### **Clear Lake, Cerro Gordo County – Dredge Spoil Site**

This project consists of the construction of compacted earth dredge spoil containment dikes, control structures and incidental work as required by the Plans and the DNR Construction

Inspector. DNR estimate is \$780,000. Project is budgeted 100% in Lake Restoration funds (see Capital Link item #95). Thirty-one sets of Plans were issued. Eight bids were received.

C. J. Moyna & Sons, Inc.	Elkader, IA	\$ 672,702.25
Midwest Contracting, L.L.C.	Marshall, MN	\$ 759,250.40
Rognes Brothers Excavating, Inc.	Lake Mills, IA	\$ 814,643.40
Steger Construction, Inc.	Dyersville, IA	\$ 849,059.20
Holland Contracting Corp.	Forest City, IA	\$ 991,864.70
Peterson Contractors, Inc.	Reinbeck, IA	\$1,004,599.60
Kevin Kent, dba Kevin Kent Construction	Lucas, IA	\$1,136,024.20
Van Buskirk Construction Co.	Sioux City, IA	\$1,244,642.00

Staff recommends award of a contract to C. J. Moyna & Sons, Inc., low bidder.

*Motion was made by Commissioner Moore to approve the low bid of C. J. Moyna & Sons, Inc. of Elkader, Iowa, in the amount of \$672,702.25 for a dredge spoil site at Clear Lake in Cerro Gordo County. Seconded by Commissioner Kramer. Motion carried unanimously.*

**CONSTRUCTION PROJECT APPROVED**

Interviews were held January 24, 2007 for the following item:

**Big Creek State Park, Polk County – Engineering Services for New Fish Hatchery**

In 2001, FishPro Engineering and Consultants completed an assessment of the five warm and cool water DNR fish production facilities. Included in the recommendations was building a new 40-acre fish hatchery and closure of two antiquated hatchery facilities located at Fairport and Mount Ayr. Offices for fish management biologists would continue to be located at these two locations.

This assessment concluded that Fairport would need \$5.9 million in repairs; however, the repairs would not solve the problem of the flooding of 1/3 of the production ponds that occurs during high water events from the adjacent Mississippi River. Beside the flooding problem, zebra mussels, an aquatic invasive species, have been found in hatchery ponds. Two fish viruses, spring viremia of carp (SVC) and largemouth bass virus (LMBV) have been recently identified in the Mississippi River, the source of the hatchery water supply. It also estimated that Mount Ayr Hatchery repairs would need \$590,000 for the small facility.

The 2001 assessment recommended building a central Iowa hatchery on a site that was a minimum of 100 acres, with flat or gently sloping terrain and highway access. Currently, all of the DNR fish hatcheries are located near the borders of the state. A centralized location would reduce fish transportation costs and transport times, which would mean less fuel to transport fish, healthier fish at stocking and increased survival. The Fisheries Bureau reviewed DNR-owned land, based on the criteria identified by FishPro, and selected a site between Big Creek Lake and Saylorville Lake for further investigation.

The Scope of Services includes completion of a series of preliminary hatchery design engineering, site suitability, environmental impact assessment and project coordination work tasks. Work will include completion of a 1-foot contour interval topographic mapping and geotechnical engineering investigation for a 100 acre project site. Report preparation and coordination will include comments and editorial recommendations from Department staff and other stakeholder agencies identified by the Department.

A notice of interest was placed in the Des Moines Register, as well as specifically contacting several engineering and consulting firms known to specialize in siting fish hatcheries. Four firms contacted the Department for more information; however only two, Stanley Consultants and HDR FishPro, submitted letters of interest and were interviewed by the selection committee.

This project is budgeted 75% Federal Sport Fish Restoration Funds and 25% Fish & Wildlife Trust Fund (see Capital Link #23).

Staff recommends award of a professional services contract, not to exceed \$164,776, to HDR FishPro.

Mike Mason, Fisheries Supervisor and Marion Conover, Fisheries Bureau Chief were introduced and provided information regarding Fish Pro and answered questions.

*Motion was made by Commissioner Kramer to award a professional services contract, not to exceed \$164,776, to HDR FishPro for engineering services for a new fish hatchery at Big Creek State Park in Polk County. Seconded by Commissioner Moore. Motion carried unanimously.*

**CONTRACT APPROVED**

Bids were opened January 30, 2007 for the following project:

**Clear Lake, Cerro Gordo County– Shoreline Stabilization**

This project consists of the placement of fieldstone riprap on 350 feet of badly eroded shoreline. Shoreline to be protected is immediately west of jetty at Harborage Canal entrance. DNR estimate is \$24,000. Project is budgeted 100% in Lake Restoration funds (see capital link item 95). Ten sets of Plans were issued. Four bids were received.

Holland Contracting Corp.	Forest City, IA	\$35,641.75
Gehrke, Inc.	Eldora, IA	\$46,297.60
Bob Cole, dba Cole Excavating	Greene, IA	\$50,170.00
YohnCo., dba The Excavating Co.	Clear Lake, IA	\$54,079.50

Staff recommends award of a contract to Holland Contracting Corp., low bidder.



*Motion was made by Commissioner Kramer to approve the low bid of Holland Contracting Corp., Forest City, Iowa, in the amount of \$35,641.75 for shoreline stabilization work at Clear Lake in Cerro Gordo County. Seconded by Commissioner Moore. Motion carried unanimously.*

**CONSTRUCTION PROJECT APPROVED**

## **LAND ACQUISITION**

Linda Hanson, Administrator, Management Services Division, presented the following item.

### **Goose Lake Wildlife Management Area, Clinton County--Kruise**

The Natural Resource Commission's approval is requested to purchase a parcel of land located in Clinton County, adjacent to the northeast side of the DNR managed Goose Lake Wildlife Management Area (WMA). Rufus Kruise offers the 72-acre parcel for the appraised price of \$317,300.

The seller will retain one year of agricultural rights. The property is currently in the enrollment process for the federal Wetland Reserve Program (WRP). The seller has agreed to assign his interest in the WRP easement acquisition to the DNR. The DNR will receive \$224,147 from Natural Resource Conservation Service for the WRP easement.

Max W. Evans, Licensed Appraiser of West Des Moines, Iowa, submitted the appraisal. Travis Baker negotiated the purchase agreement.

This property is located in northeast Clinton County. The small town of Goose Lake is located approximately one mile southeast. The topography is nearly level with some areas hampered by wetness due to the high water table and marsh soil types. The average CSR is 74. Acquisition of this property will allow the DNR improved water level management and eliminate flooding liability at Goose Lake.

This acquisition will become part of the 1,215-acre Goose Lake WMA and will be managed by the Conservation and Recreation Division in accord with the area management plan.

Funding used for this acquisition will be Wildlife Habitat Stamp (see Capital Link #7). This property will remain eligible for continued payment of property taxes. Incidental closing costs will be the responsibility of the Department.

*Motion was made by Commissioner Kramer to approve the purchase of a 72-acre parcel of land located adjacent to the Goose Lake WMA in Clinton County from Rufus Kruise for the appraised price of \$317,300. Seconded by Commissioner Moore.*

Mr. Rufus Kruise commented that he acquired this property 30 years ago and the land is now an integral part of the Goose Lake Wetlands Project. He said he feels it is a historic area and will someday be developed into a recreational area.

*Motion carried unanimously.*

<b>LAND ACQUISITION APPROVED</b>
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**Soap Creek Wildlife Management Area, Davis County--Miller**

The Natural Resource Commission's approval is requested to accept a donation for a permanent ingress and egress (access) easement across land adjacent to Soap Creek Wildlife Management Area (WMA) in Davis County. This easement shall serve to provide DNR personnel and farm tenants access to State-owned land. Ted Miller offers the donation of this easement.

Dan Kinsinger negotiated this easement.

In the summer of 2006, Davis County closed a dirt road and ownership of this abandoned dirt road right-of-way reverted to the adjoining landowners, DNR and Ted Miller. This easement covers the Miller-half of the abandoned road and will allow DNR staff and farm tenants to access fields. The easement is for Department use only and the public will not have the use of the old roadway; however, the public has other access to Soap Creek WMA. The DNR opposed the closing of the road by the County, but was unable to thwart it.

No survey or fencing costs are anticipated. In the event that there is a future need for gating it would be at the expense of the Department. Incidental closing costs will be the responsibility of the Department.

<i>Motion was made by Commissioner Kramer to accept the donation from Ted Miller for a permanent ingress and egress (access) easement across land adjacent to Soap Creek Wildlife Management Area (WMA) in Davis County. Seconded by Commissioner Moore. Motion carried unanimously.</i>
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<b>LAND DONATION APPROVED</b>
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**Simmons Wildlife Area, Taylor County—James and Lynda Alvarez**

The Natural Resource Commission's approval is requested to purchase a parcel of land located in central Taylor County. James and Lynda Alvarez offer this 80-acre tract for the appraised price of \$185,000.

Gary Thien, Licensed Appraiser of Council Bluffs, Iowa, submitted the appraisal. Rick Hansen negotiated the purchase agreement.

This property is located 4 miles north of Bedford. The moderately-sloped tract is comprised of half tillable land enrolled in the Conservation Reserve Program (CRP) and half timber-pasture land. The sellers will retain the CRP payment as may be earned on 41.8 acres at \$92.40 per acre for 2007. The average Corn Suitability Rating of the property is 40. There are no building improvements. A county gravel road forms the north boundary of the tract.

This tract will increase the Simmons Wildlife Area to 300 acres. This area is adjacent north of Lake of Three Fires State Park. The acquisition will provide wildlife habitat, improve water

quality, and enhance public recreation to this area. The Parks Bureau will manage the property with technical assistance from the Wildlife Bureau.

Acquisition funding will be provided by the Lake Restoration Fund (see Capital Link #101). The Department will pay for a boundary fence along the east property line. No survey costs are anticipated. Incidental closing costs will be the responsibility of the Department.

*Motion was made by Commissioner Kramer to approve the purchase of an 80-acre parcel of land located at the Simmons Wildlife Area in Taylor County from James and Lynda Alvarez for the appraised price of \$185,000. Seconded by Commissioner Moore. Motion carried unanimously.*

**LAND ACQUISITION APPROVED**

## **CLOSED SESSION**

Linda Hanson asked the Commission to go into closed session for the purpose of discussing strategy for acquiring a piece of property pursuant to Iowa Code 21.5(j). She introduced Ed Tormey, DNR General Counsel, to provide legal assistance regarding the propriety of a closed session. Mr. Tormey referenced Code Section 21.5(j) which allows the commission “to discuss the purchase of particular real estate only where premature disclosure could be reasonable expected to increase the price the governmental body would have to pay for that property.”

*Motion was made by Commissioner Moore to go into closed session to discuss strategy for possible land acquisition as permitted under Iowa Code Section 21.5(j). Seconded by Commissioner Kramer. Motion carried unanimously.*

Following the return from closed session, Acting Chair Kim Francisco announced that during closed session the commission discussed land acquisition strategy and concurred affirmatively.

## **28E AGREEMENT WITH DEPARTMENT OF REVENUE**

Linda Hanson, Administrator, Management Services Division, presented the following item.

The Natural Resource Commission’s approval is requested to enter into a 28E Agreement with the Iowa Department of Revenue (IDR) to establish an effective system for the collection of debts owed to the DNR. The IDR is authorized by the Code of Iowa to provide these collection services to state agencies and Iowa Code Chapter 28E (2005) authorizes state agencies to contract with one another.

During similar prior agreements, the IDR, with their specialized expertise and tools, was more successful in its overall collection efforts resulting in an increase of the total collection of debts. The DNR was able to spend fewer resources collecting debts and more resources focused on program goals.

Pursuant to the current terms of the Agreement, the DNR would pay IDR not more than 15% of the total debt collected. Either party would be able terminate the Agreement upon 30 days written notice.

Prepared by: Edmund J. Tormey, Chief Counsel, Iowa Department of Natural Resources, Henry A. Wallace Building, Des Moines, IA 50319, Phone: 515-281-8973, Fax: 515-281-8895. Return and Bill to: Same.

**INTERAGENCY 28E AGREEMENT BETWEEN THE DEPARTMENT OF NATURAL  
RESOURCES AND DEPARTMENT OF REVENUE**

THIS AGREEMENT, between the Iowa Department of Natural Resources (DNR) and the Iowa Department of Revenue (IDR) is duly authorized by and compliant with the requirements of Iowa Code Chapter 28E (2005).

**W I T N E S S:**

That IDR and DNR executed an agreement (Prior Agreement) to establish an effective system for collection of debts owed to the DNR;

That said agreement was recorded by Polk County, in book 11671 on page 599-602, on May 26, 2006; and

That said agreement was recorded by the Iowa Secretary of State on June 6, 2006, and entered into full force on the same.

**THEREFORE:**

In consideration of mutual promises and covenants herein contained, the parties agree as follows:

Section 1.       **PURPOSE.** The purpose of this Agreement is establish an effective system for collection of debts owed to the DNR and that set forth the terms and conditions between the IDR and DNR for collecting unpaid debts, including all principal, interest, collection costs, penalties, court costs, fees and surcharges, in accordance with the procedures specified in Iowa Code Section 421.17(22 & 27).

Section 2.       **PRIOR AGREEMENTS.** This Agreement shall terminate and supersede the terms of the Prior Agreement.

Section 3.       **STATUTORY AUTHORITY.** This Agreement is made pursuant to statutory authority granted to the parties pursuant to Iowa Code section 28E.12 (2005) and Iowa Code Section 421.17(22&27) (2005).

Section 4.       **CONDITIONS.**

This Agreement shall be bound by the requirements of 701 Iowa Admin. Code 151 and subject to the following terms:

A. The DNR shall:

1. Submit a request to IDR for it to perform its obligations pursuant to this Agreement for each debtor for which DNR determines IDR's services are needed. Such request shall include, to the extent it is available, the following information about the debtor: full name(s); mailing address(es); identification number(s); telephone number(s); debt amount(s) owed; and such other information the DNR may possess.

2. Notify IDR of any changes in the status of a debt no later than ten calendar days from the occurrence of the change.
  3. Compensate IDR for its performance consistent with Section 5 of this Agreement.
- B. The IDR shall:
1. Utilize all reasonable and lawful collection efforts to secure payment of debt obligations assigned by the DNR, specifically by, but not limited to:
    - a. Informing the debtor of the balance due the DNR, including all costs and fees imposed therewith, upon IDR's contact with the debtor.
    - b. Attempting to arrange immediate full payment of the debtor's obligation.
    - c. Establishing reasonable and affordable payment arrangements allowing the debtor to pay the debt in installments, if IDR determines the debtor cannot pay the full amount due immediately.
  2. Comply with all applicable state and federal laws governing collection of debt in executing its collection practices. The IDR and the DNR are both agencies of the State of Iowa and therefore no third-party collection relationship exists.
  3. Have established procedures for receiving and acting on complaints regarding collection activities.
  4. Assist the DNR in resolving complaints regarding IDR's collection activities for DNR

Section 5. COLLECTION FEE. For purposes of this section, the term "payments" shall be defined to include cash, checks, money orders and other financial instruments, or tax or vendor "offsets."

- A. DNR shall pay IDR a collection fee of not more than fifteen (15) percent (Collection Fee) of any full or partial payments made to either the IDR or to the DNR subsequent to IDR's receipt of request, as described in Section 4(A)(1) of this Agreement, and commencement of collection activity.
- B. The IDR shall produce at least monthly reports that itemize all collections upon which the IDR would be entitled to the Collection Fee and/or have assessed such Collection Fee.
- C. The IDR shall transfer total collected amounts less the Collection Fee to the DNR monthly with the report, described in Section 5(B) of this Agreement, detailing the collection actions for the month.
- D. In the event the DNR receives a payment subject to IDR's receipt of a Collection Fee directly, DNR shall pay IDR the Collection fee for such payment within 30 calendar days and shall notify IDR of the change in status of the debt, consistent with Section 4(A)(2) of this Agreement.

Section 6. DURATION; TERMINATION. The term of this Agreement shall be from the date of commencement until either party terminates this Agreement. The termination shall not be effective until thirty (30) days after notice is received by the other party. Upon termination of this Agreement, the IDR shall return within thirty (30) days to the DNR all records held by the IDR and transfer to the DNR any documents or records which pertain to this Agreement. Federal or State legislative or administrative action which renders this Agreement void or which makes compliance impossible shall terminate this Agreement.

Section 7. NO SEPARATE LEGAL OR ADMINISTRATIVE ENTITY; ADMINISTRATION. By this Agreement the parties do not intend to create a separate legal or administrative entity. Each signatory to this Agreement is responsible to administer its interests in this Agreement.

Section 8. PROPERTY. The parties agree that no real property shall be acquired, maintained or disposed of as a result of this Agreement.

Section 9. GOVERNING LAW. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Iowa. Nothing herein shall be construed to relieve any party of any obligation or responsibility imposed upon it by law.

Section 10. AMENDMENTS. This Agreement may not be changed except by an amendment hereto in writing signed by the parties hereto. If this Agreement is amended, any amendment thereto shall expressly include the county index numbers of this Agreement provided upon recording and shall be recorded consistent with the requirements of Iowa Code Chapter 28E (2005) and Section 11 of this Agreement.

Section 11. RECORDING. Upon execution the DNR shall file a copy of this Agreement with the Iowa Secretary of State and cause the same to be recorded in the Office of the County Recorder of Polk County, as required by Iowa Code Section 28E.8 (2005).

Section 12. CONFIDENTIALITY. The IDR and DNR shall institute procedures, compliant with Iowa Code Chapter 22 (2005), to insure that adequate safeguards are established to provide protection against unauthorized access or disclosure of information received pursuant to and in accordance with this Agreement.

Section 13. APPROVAL; AUTHORIZATION. By their signatures below, the representatives of the respective parties confirm that this Agreement has been approved and its execution authorized by the respective duly authorized officers or governing bodies of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed on their behalf by their duly authorized officers all as of the Dated Date.

This agreement is entered into under the authority of the Natural Resource Commission as decided at its regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and as shown in the minutes thereof, and under the authority of the Environmental Protection Commission as decided at its regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and as shown in the minutes thereof.

IOWA DEPARTMENT OF NATURAL RESOURCES

BY: \_\_\_\_\_

Richard Leopold  
Director

STATE OF IOWA, POLK COUNTY: This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Richard Leopold as Director of the Iowa Department of Natural Resources.

\_\_\_\_\_  
NOTARY PUBLIC FOR THE STATE OF IOWA

IOWA DEPARTMENT OF REVENUE

BY: \_\_\_\_\_

Mark R. Schuling  
Director

STATE OF IOWA, POLK COUNTY: This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Mark R. Schuling as Director of the Iowa Department of Revenue.

\_\_\_\_\_  
NOTARY PUBLIC FOR THE STATE OF IOWA

Linda Hanson reviewed that DNR has been working with Iowa Department of Revenue regarding changes to a previous agreement in order to establish an effective system for the collection of debts owed to the DNR.

Ed Tormey, Legal Bureau Chief, reviewed some past history of trying to collect money owed to the DNR. He said that IDR is authorized by the Code of Iowa to provide collection services to state agencies and Iowa Code Chapter 28E (2005) authorizes state agencies to contract with one another. Tormey said that during similar prior agreements, the IDR, with their specialized expertise and tools, was more successful in its overall collection efforts resulting in an increase of the total collection of debts. This resulted in the DNR spending fewer resources collecting debts and more resources focused on program goals. He reviewed that IDR has the ability to retain income tax refunds as well as having the ability to deny a registration for motor vehicles. Tormey said there is over a \$1 million backlog on collecting debt owed to DNR.

*Motion was made by Commissioner Kramer to enter into a 28E Agreement with the Iowa Department of Revenue (IDR) to establish an effective system for the collection of debts owed to the DNR. Seconded by Commissioner Moore. Motion carried unanimously.*

**AGREEMENT APPROVED**

### **MANAGEMENT AGREEMENT, FAYETTE COUNTY—ECHO VALLEY STATE PARK**

Linda Hanson, Administrator, Management Services Division, presented the following item.

The Natural Resource Commission's approval is requested for a management agreement between the Fayette County Conservation Board and the Department. This agreement will authorize the Fayette County Conservation Board to manage Echo Valley State Park for the period ending December 31, 2029. This agreement extends a prior management agreement dating back to November 1984.

Under this agreement the Fayette County Conservation Board will manage the property in substantially the same manner as the Department and will incur the costs of management and maintenance. The DNR standard management agreement is utilized as the model for this agreement

*Motion was made by Commissioner Kramer enter into a management agreement with the Fayette County Conservation Board to manage Echo Valley State Park for the period ending December 31, 2029. Seconded by Commissioner Moore. Motion carried unanimously.*



**AGREEMENT APPROVED****CONSERVATION AND RECREATION DONATIONS**

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Natural Resource Commission is requested to approve the following donations:

Parks Bureau

Paul Moore donated \$200.00 to be used at Lake Macbride State park for the ecosystem plan, prairie plantings and seed.

Richard and Sunday Antrim donated \$700.00 to Lake Macbride State Park for north shore bike trail improvements.

Steve Hirsch donated \$500.00 to be used at Lake Macbride State Park for the ecosystem plan, prairie plantings, and seed.

JMS Racing Services donated \$750.00 to Pleasant Creek State Recreation Area in thanks for the use of the are for two triathlons that are held here annually since the mid 1990s.

Clifford Bowers Farms donated a stainless steel locking mechanism, valued at \$200.00, for the gate on the fence around the park office and shop compound at Pleasant Creek State Recreation Area.

Cedar River Garden Center donated four flats of annual flowers valued at \$81.12 the large planters at the beach for the summer of 2006 at Pleasant Creek State Recreation Area.

Cedar Rapids Bassmasters donated materials and labor to stain the enclosed shelter at Pleasant Creek State Recreation Area.

The following individuals and companies donated money and labor for campground improvements at Stone State Park. The project included a youth group camping area, two camping type cabins, and the construction of a new shower facility in the main campground.

Black Tie Limousine	\$50.00
Ronald Burg and Jill Humphrey	\$250.00
Cargill, Inc.	\$5000.00
John and Shari Couch	\$392.00
Dennis Supply Company	\$1000.00
Warren Dunkle	\$300.00
Gleeson Family Foundation	\$9000.00
John Gleeson	\$4000.00
Helen Gleeson	\$5000.00
Grace Methodist Church	\$50.00
John Gray	\$200.00
James Harris	\$100.00
Mark and Ann Hinds	\$75.00
Greg Hoversten	\$1000.00
Jolly Time American Pop Corn Company	\$2500.00
Kind World Foundation Fund	\$4000.00



L&L Builders	\$9900.00
Loess Hills Alliance	\$8000.00
Meyer Brothers Funeral Homes	\$25.00
Buck and Patty Miller	\$100.00
Missouri River Historical Development	\$10,000.00
Missouri River Runners	\$2013.91
Doug and Cathy Palmer	\$100.00
Kevin and Maureen Pape	\$322.00
Dan and Kay Pecaut	\$1000.00
Quirk Farms	\$250.00
James and Barbara Redmond	\$200.00
Regina Roth/BPI Technology Inc	\$12,000.00
Rogers Electric Supplies Co	\$1000.00
Sioux Body Shop	\$25.00
Gary and Anne Shaner	\$100.00
Sierra Club (Northwest Iowa Group)	\$400.00
Kam Smith	\$100.00
Steffen Engineering and Testing, Inc.	\$100.00
Steve Hinds, Inc.	\$500.00
Terra Industries, Inc.	\$500.00
Larry Theobald and Heather Reid	\$100.00
Van Osdel Plastering & Drywall Inc.	\$50.00
Jerry VonEhwegen	\$50.00
Wagner, Kuntz & Grabouski	\$100.00
Chesterman Co	\$1000.00
Security National Corp	\$500.00

The Vocational Agriculture Class at Fremont-Mills High School donated material and labor valued at \$125.00 to repair fire rings at Waubonsie State Park.

Eugene Armstrong and Neil Armstrong donated labor, rock and gravel, valued at \$1567.08, to assist in the construction of an 8-acre prairie area and parking lot/overlook area at Badger Creek State Recreation Area. The donation included the use of mowing, seeding, spraying, and various other farm equipment.

Mr. and Mrs. Lawrence Staples donated \$50.00 to the Wildlife Diversity Program.

Larry and Debbie Marshall donated a binocular stereo zoom microscope valued at \$500.00 to the Fairport Fish Hatchery.

Ed Rousch donated \$508.00 for the printing of the 2006 Hunting and Trapping season posters and wallet cards for distribution around Scott County.

Ken Herring noted donations to specific park projects. He asked Angela Corio to explain the background history regarding the donations for campground improvements at Stone State Park and the volunteer Friends group efforts for improvements at the park.

Commissioner Moore commented on the positive publicity from these types of projects and said that should be leveraged statewide.

*Motion was made by Commissioner Moore to accept the donations to the Conservation and Recreation Division. Seconded by Commissioner Kramer.*

Commissioner Francisco noted that he heard a good discussion on the radio about the work done at Viking Lake which was enabled by some of the land purchases the department made. He said there is now a trail that goes around the lake and multiple sediment basins. He added that it is good to hear of these accomplishments.

*Motion carried unanimously.*

#### **DONATIONS APPROVED**

### **FINAL RULE—CHAPTER 51, GAME MANAGEMENT AREAS**

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

This rule change is intended to clarify the use of horses on game management areas. Horses are prohibited on game management areas except: 1) when used for training raccoon hunting dogs from October 1 to February 1 and for raccoon hunting during open hunting seasons, 2) for participating in authorized field trials, and 3) for pleasure riding between the dates of May 25 to September 30 on existing roads and trails on specific game management areas. DNR game management areas are managed with federal aid funding from the U.S. Fish & Wildlife Service. These changes allow for a limited amount of horse use on game management areas during times that do not interfere with primary management purposes for these areas and without jeopardizing federal aid funding. This rule change also prohibits the use of paintball guns on all game management areas and adds code citations to chapter 51.7(2) which authorizes handicapped persons to be permitted to use ATV's and snowmobiles for hunting on game management areas.

#### **NATURAL RESOURCE COMMISSION [571] Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 51, "Game Management Areas," Iowa Administrative Code.

These amendments are intended to clarify the use of horses on game management areas, prohibit the use of paintball guns on game management areas, and clarify that handicapped persons can be permitted to use ATV's and snowmobiles on game management areas. Horses are prohibited on game management areas except: 1) when used for training raccoon hunting dogs from October 1 to February 1 and for raccoon hunting during open hunting seasons, 2) for participating in authorized field trials, and 3) for pleasure riding between the dates of May 25 to

September 30 on specific game management areas. The use of paintball guns is prohibited on all game management areas. These rules allow for limited horse use on certain game management areas during times that are compatible with the primary management purposes of these lands and without jeopardizing federal aid funding. Amendments to subrule 51.7(2) clarify that handicapped persons may be permitted to use ATV's and snowmobiles in addition to cars and trucks for hunting on game management areas.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 30, 2006, as ARC 5353B. A public hearing was held on September 27, 2006. As a result of comments received and additional staff review, two changes have been made to the Notice of Intended Action. Rule 51.4(481) was deleted and replaced with a new rule 51.4(481A). Appropriate code sections were added to subrule 51.7(2) which authorize permitted handicapped persons to use ATV's and snowmobiles for hunting on game management areas.

These amendments are intended to implement Iowa Code section 481A.6.

These amendments shall become effective April 4, 2007.

The following amendments are adopted.

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ITEM 1. Amend rule 571--51.1(481A) by adopting the following **new** definition in alphabetical order:

"Horse" means any equine animal including horses, mules, burros, donkeys, and all llamas or alpaca-like animals.

ITEM 2. Amend rule 571--51.3(481A) by adopting the following **new** subrule:

51.3(2) Use of paintball guns. The use of any item generally referred to as a paintball gun is prohibited on all game management areas.

ITEM 3. Renumber rules 571--51.4(481A) to 571--51.11(481A) as 571--51.5(481A) to 571--51.12(481A) and adopt the following **new** rule:

**571--51.4(481A) Use of horses on game management areas.**

51.4(1) Prohibition. Horses are prohibited on all game management areas unless allowed by exception. This rule does not apply to State Forests or State Recreation Areas.

51.4(2) Exception for hunting and field trials. Horses may be used on all game management areas for training raccoon hunting dogs from October 1 to February 1 and for hunting raccoons during open hunting seasons. Horses may be used for participating in authorized field trials, unless posted as prohibited.

51.4(3) Exception for horseback riding. Horseback riding is allowed on the following game management areas between the dates of May 25 and September 30 and confined to existing roads or trails as posted:

- (1) Elk Grove Wildlife Area – Guthrie County
- (2) Lennon Mills Wildlife Area – Guthrie County
- (3) Marlow Ray Wildlife Area – Guthrie County
- (4) Middle Raccoon River Wildlife Area – Guthrie County
- (5) Sand Creek Wildlife Area – Decatur and Ringgold Counties
- (6) Cardinal Marsh – Winneshiek County
- (7) Hawkeye Wildlife Area – Johnson County
- (8) Black Hawk Wildlife Area – Sac County

## (9) Turkey River Wildlife Area – Howard County

ITEM 4. Amend subrule 51.7(2)"a" as follows:

a. Definitions. For the purposes of this subrule, the following definition shall apply: "Motor vehicle" means any self-propelled vehicle having at least three wheels and registered as a motor vehicle under Iowa Code chapter 321, 321I, or 321G.

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Date

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Richard A. Leopold, Director

Ken Herring remarked that Chapter 51 is the better place for the placing of restrictions on game management areas because it deals with the things one can or cannot do on state game areas. He complimented Jeff Joens in dealing with the controversy in these rules, saying he worked very hard with stakeholders on these rules and made changes based on good listening.

Commissioner Francisco questioned why just raccoon hunting is in the rule and not coyotes and fox. Mr. Joens explained that at the public hearings, the people who spoke were mainly raccoon hunters. He said it appears that not many fox or coyotes are hunted by horseback.

*Motion was made by Commissioner Kramer to approve Final Rule—Chapter 51, Game Management Areas. Seconded by Commissioner Moore. Motion carried unanimously.*

<b>FINAL RULE APPROVED</b>
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**FINAL RULE—CHAPTER 94, NONRESIDENT DEER HUNTING**

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Commission is requested to adopt a final rule to amend Chapter 94, Nonresident Deer Hunting. These amendments set antlerless quotas for nonresident licenses, clarifies the method of take during the Holiday season, the dates of the season for disabled nonresidents and requires successful hunters to report their kill.

**NATURAL RESOURCE COMMISSION [571]**

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

Chapter 94 gives the regulations for hunting deer and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking, and transportation tag requirements. These amendments set quotas for nonresident antlerless licenses and requires successful hunters to report their kill.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as ARC 5604B. The only comment received requested a clarification of method of take for the Holiday season. A public hearing was held on January 11, 2007 and no one attended. The only changes from the Notice of Intended Action are to clarify language in 94.7(3) to indicate method of take during the Holiday season and to make the season dates for the nonresident disabled hunters consistent with the resident youth season. These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

These amendments shall become effective April 5, 2006.

The following amendments are adopted.

ITEM 1. Amend rule 571--94.1(483A) as follows:

**571--94.1(483A) Licenses.** Every hunter must have in possession a valid nonresident deer license, a valid nonresident hunting license, and proof that the hunter has paid the current year's wildlife habitat fee when hunting, possessing, or transporting deer. No person, while hunting deer, shall carry or have in possession any license or transportation tag issued to another person. No one who is issued a deer hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while deer hunting or tagging a deer.

ITEM 2. Amend paragraph 94.1(1)"c" as follows:

c. Optional antlerless-only licenses. A hunter who is not successful in drawing an any-deer license may purchase an antlerless-only license as described in rule 571--94.8(483A). This antlerless-only license shall be valid in the ~~zone~~ county and season designated by the hunter at the time it is purchased.

ITEM 3. Amend subrules 94.6(1) and 94.6(2) as follows:

**94.6(1) Zone license quotas.** Nonresident license quotas are as follows:

	Any-deer licenses		Mandatory	Optional
	All Methods	Bow	Antlerless-only	Antlerless-only
Zone 1.	180	63	180	
Zone 2.	180	63	180	
Zone 3.	560	196	560	
Zone 4.	1280	448	1280	
Zone 5.	1600	560	1600	
Zone 6.	800	280	800	
Zone 7.	360	126	360	
Zone 8.	240	84	240	
Zone 9.	600	210	600	
Zone 10.	200	70	200	
Total	6000	2100	6000	3500 statewide

**94.6(2) Quota applicability.** The license quota issued for each zone will be the quota for all bow, regular gun and muzzleloader season licenses combined. No more than 6,000 any-deer licenses and 6,000 mandatory antlerless-only licenses will be issued for all methods of take combined, for the entire state. Of the 6,000 any-deer and 6,000 mandatory antlerless-only licenses, no more than 35 percent in any zone can be bow licenses. A maximum of 3,500

optional antlerless-only licenses, ~~regardless of season or zone~~, will be issued ~~for the entire state~~ on a county by county basis. The licenses will be divided up between the counties in the same proportion as resident antlerless-only licenses. Hunters must designate a zone or county and season when purchasing the license and hunt only in that zone or county and season.

ITEM 4. Amend subrules 94.7(3) as follows:

**94.7(3)** Muzzleloader and holiday seasons . During the muzzleloader and holiday season, deer may be taken with a muzzleloader, handgun, or bow as described in 94.7(1). Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 and not larger than .775 caliber, shooting single projectiles only. Centerfire handguns must be .357 caliber or larger shooting straight-walled cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48 . Legal handgun calibers are listed on the department of natural resources list of "Acceptable Handgun Calibers for Hunting Deer in Iowa." Revolvers, pistols and black powder handguns must have a 4-inch minimum barrel length. There can be no shoulder stock or long-barrel modifications to handguns. Muzzleloading handguns must be .44 caliber or larger, shooting single projectiles only

ITEM 5. Amend subrule 94.8(2) as follows:

**94.8(2)** Optional antlerless-only licenses. Optional antlerless-only licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales Web site. Licenses for taking only antlerless deer will be available on the same date as excess any-deer licenses are sold as explained in 94.8(1). Optional antlerless-only licenses will be sold first-come, first-served until the ~~statewide~~ county quota is filled, or until the last day of the season for which a license is valid. If optional antlerless-only licenses are still available on December 15, they may be purchased by nonresidents to hunt during the period from December 24 through January 2. These licenses will be available to nonresidents who have not purchased a nonresident deer license during one of the current deer seasons. The hunter must have in possession a valid nonresident small game hunting license and proof of having paid the current year's wildlife habitat fee. Optional antlerless-only licenses will be issued by season and ~~zone~~ county and will be valid only in the season and ~~zone~~ county designated by the hunter at the time the license is purchased.

ITEM 6. Amend subrules 94.10(2) as follows:

**94.10(2)** Season dates. Any deer or antlerless deer may be taken in the hunting zone indicated on the deer license during 16 consecutive days beginning the third Saturday in September ~~from the third Saturday in September through the first Sunday in October~~ .

ITEM 7. Adopt new rule 571--94.11(481A) as follows:

**571--94.11(481A) Harvest reporting.** Each hunter who bags a deer must report that kill according to procedures described in 571—95.1(481A).

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Date

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Richard A. Leopold, Director

*Motion was made by Commissioner Marcantonio to approve Final Rule—Chapter 94, Nonresident Deer Hunting. Seconded by Commissioner Moore. Motion carried unanimously.*

**FINAL RULE APPROVED**

Commissioner Francisco stated that as a housekeeping item, the department should look at getting the statute changed so that zones and counties are consistent. He explained that the statute requires zones but the department is doing everything by county.

*Motion was made by Commissioner Moore to delay Item 11 until later in the meeting to allow other public participation. Seconded by Commissioner Kramer. Motion carried unanimously.*

### **WILDLIFE HABITAT WITH LOCAL ENTITIES PROGRAM GRANT REVIEW**

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Wildlife Habitat with Local Entities Program Grant Review Committee reviewed a total of sixteen (16) county conservation board projects requesting \$1,987,642.37. A total of \$734,000.00 is available for this grant review.

The committee recommends fully funding seven (7) projects and partial funding for one project as follows.

<b>County</b>	<b>Project Name</b>	<b>Acres</b>	<b>Grant Request \$</b>	<b>Grant Award \$</b>	<b>Total Project Cost</b>
Marshall	Iowa River Wildlife Management Area	330	\$200,000.00	\$200,000.00	\$826,000.00
Jones	Lost Canyon-Valley of 13 Caves, Addition to Whitewater Canyon	141	\$70,000.00	\$70,000.00	\$130,000.00
Clarke	Vawn Wildlife Area	121.93	\$99,000.00	\$99,000.00	\$215,000.00
Winnebago	Winnebago River Greenbelt Expansion Project	105	\$78,750.00	\$78,750.00	\$105,000.00
Worth	Christianson-Taylor WMA Mehus Addition	90	\$60,975.00	\$60,975.00	\$81,300.00
Webster	Miller Marsh Addition	177.8	\$148,173.00	\$148,173.00	\$763,713.00



Buchanan	Ham Marsh	44	\$48,364.50	\$48,364.50	\$64,486.00
Dallas	Big Bend Project - Dudley Addition 2007	20	\$36,663.00	\$28,738.00	\$68,300.00

Commission approval is requested for the committee recommendations.

*Motion was made by Commissioner Marcantonio approve fully funding seven (7) projects and partial funding for one project as recommended by the Wildlife Habitat with Local Entities Program Grant Review Committee. Seconded by Commissioner Moore. Motion carried unanimously.*

#### GRANTS APPROVED

### FINAL RULE—CHAPTER 87, MUSSEL REGULATIONS

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

Approval is requested to amend Chapter 87, "Mussel Regulations." The proposed action closes the season for commercial harvest of mussels in waters of the Mississippi River common with the state of Illinois.

Commercial harvest of mussels has historically been permitted only from the Mississippi River. Harvest by licensed shellers peaked in 1990 at 2.4 million pounds. Harvest has declined since and no harvest has been reported since 1998. The number of licensed shellers has also declined from 460 in 1990 to zero since 1999.

The decline in harvest is attributed to many factors including decreased demand, removal of washboard mussels from permissive catch, and decline in native mussel populations as a result of the invasion of zebra mussels. Even though Iowa has no harvest presently, native mussel numbers are still declining and any resumption of commercial harvest in the near future will accelerate ongoing stock declines.

This action will bring closure to commercial harvest of mussels in any waters of the State. Action taken by the NRC last year closed harvest in waters of the Mississippi River common with Wisconsin. Wisconsin did promulgate rules closing their commercial mussel harvest. Illinois has not made the commitment to do the same, but this action by Iowa is responsive to the resource issue at hand.

No comments were received from the public.

NATURAL RESOURCE COMMISSION [571]  
Adopted and Filed



Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 87, "Mussel Regulations," Iowa Administrative Code.

The proposed amendment closes the commercial harvest of mussels in the waters of the state and updates sport harvest regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 6, 2006, as ARC 5603B. A public hearing was held on January 4, 2007. There are no changes from the notice.

These amendments are intended to implement Iowa Code sections 456A.24, 481A.38, 481A.39, and 482.1.

These amendments will become effective April 4, 2007.

The following amendments are proposed:

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Rescind rules 87.1 and 87.2 and adopt the following new rule in lieu thereof:

**571-87.1(481A) Seasons, areas, methods, species, limits.** The taking and possession of mussels from the public waters of the state shall be limited to the following regulations.

**87.1(1) Seasons.** There shall be an open season for taking mussels throughout the year. The taking of mussels is restricted to the hours between sunrise and sunset.

**87.1(2) Species.** Species other than those listed as threatened or endangered may be lawfully taken and possessed. Zebra mussels shall not be taken and possessed.

**87.1(3) Areas.** Live mussels may be harvested only from the Mississippi River and connected backwaters. Dead mussels may be harvested from all waters of the state.

**87.1(4) Limits.** The possession limit is 24 whole mussels or 48 shell halves. The sale of mussels or shells is not permitted. Licensed commercial fishers, licensed sport anglers, and children younger than 16 years of age may take and possess mussels.

**87.1(5) Methods.** Mussels may be taken by hand, pole and line, diving, and crowfoot bar not to exceed 20 feet in length.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard A. Leopold, Director

*Motion was made by Commissioner Moore to approve Final Rule—Chapter 87, Mussel Regulations. Seconded by Commissioner Kramer. Motion carried unanimously.*

<b>FINAL RULE APPROVED</b>
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## **TIMBER SALE—YELLOW RIVER STATE FOREST, PAINT ROCK UNIT, ALLAMAKEE COUNTY**

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Forestry Bureau is conducting a timber sale involving approximately 22 acres involving 86 walnut trees (11,460 board feet (Scribner)) located on the Paint Rock Unit of the Yellow River State Forest. The trees are located Section 27 & 34, Taylor Township, T79N, R3W, in Allamakee County. Trees are marked with yellow paint.

The goal of the harvest is to thin the stand to achieve more optimal growth on the remaining trees and improve the overall health and quality of the stand. The stand contains over-mature and declining walnuts. These will be commercially harvested. Following the harvest, Yellow River State Forest crews will remove other defective trees in an improvement cut involving all size classes.

The proposed sale was posted to the DNR website in March, 2006 with the more detailed sale information appearing December, 2006. This is the third sale in this Unit and compartment this winter and is consistent with the management objectives for this Unit of improving the health and vigor of the Unit by removing diseased, over-mature and poor quality trees. Management plans are prepared the Forest, but still undergoing internal review before being posted.

Site review was conducted during the summer of 2006 by DNR Wildlife Diversity Specialist, Daryl Howell. No site was listed in the 1986 confidential archaeological site report for Allamakee County. No waterways will be crossed and no skid trails will be established. There is an existing service road which can be utilized for access.

Sealed bids were received until 2:00 p.m., Tuesday, January 30, 2007, at which time bids were opened.

The bids were as follows:

<b>Timber Buyer</b>	<b>Bid Amount</b>
Ron Howell	\$28,750.00
Todd Jones / Jones Wood Heating	\$22,500.00
Charles Downs	\$ 9,856.00

Staff recommends that the Commission accept of the bid from Ron Howell for \$28,750.00. The successful bidder must execute a timber sale contract with the State of Iowa by March 1, 2007, and make payment at that time. Trees must be removed by April 1st, 2008. Liability insurance is required. Buyers must be bonded.

<u><b>Species</b></u>	<u><b># Trees</b></u>	<u><b>Bd Ft</b></u>
Walnut	86	11,460

*Motion was made by Commissioner Kramer to accept the bid from Ron Howell for \$28,750.00 for a timber sale involving approximately 22 acres involving 86 walnut located on the Paint Rock Unit of the Yellow River State Forest. Seconded by Commissioner Marcantonio. Motion carried unanimously.*

**TIMBER SALE APPROVED**

**FINAL RULE—CHAPTER 16, PUBLIC, COMMERCIAL, PRIVATE DOCKS AND DOCK MANAGEMENT AREAS**

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Commission amends Chapter 16, and renames it “Docks and Other Structures on Public Waters,” Iowa Administrative Code. This final rule rescinds the current rule and replaces it with a complete re-write of this chapter.

These rules reauthorize general permits that exempt the owners of most private docks from obtaining individual permits and paying administrative fees. Eligibility requirements are revised, primarily by limiting general permits to certain docks, and elaboration of criteria for granting certain exceptions.

These rules include numerous minor changes to clarify the meaning of rules and fine-tune certain limits and exceptions in response to public comments. Significant changes include substitution of “Class I” permits for the proposed reauthorization of “general permits” for certain docks, and elaboration of criteria for granting certain exceptions.

New rule 16.2 establishes classes of permits, including “Class I” permits in lieu of the proposed re-authorization of “general permits” for certain private docks qualifying as “standard” docks and docks permitted by the U.S. Army Corps of Engineers. Under 16.4(3), owners of “standard” docks eligible for a Class I permit have until July 1, 2008 to obtain a permit, which will be issued for a maximum period of five years without administrative fee. Under Rule 16.5, a dock permit issued by the U.S. Army Corps of Engineers pursuant to an agreement with the department for a joint application review process shall serve in place of a Class I permit issued by the department.

The general permit for docks managed by cities and counties from frontage owned by them is replaced by authorization in Rule 16.6 for issuance of Class II permits to cities and counties without fee for a term up to five years.

Criteria for permitting “nonstandard” private docks (Class III) and commercial docks (Class IV) are changed from the Notice of Intended Action by allowing greater density of boat hoists (one hoist per 10 feet of shoreline in place of one hoist per 12.5 feet of shoreline). See subrules 16.7(3) and 16.8(3). Also, a minor clarification concerning conformity with local zoning requirements is included in subrule 16.8(4).

“Grandfather” exceptions authorizing renewal of permits for lawfully existing docks and hoists that do not conform to “offset” requirements are changed to address the circumstance where two adjoining owners desire to place their boat hoists next to one another without leaving a gap at the property line. See 16.9(2).

Exceptions from certain limits or requirements for proposed new docks, hoists or slips, are changed in response to public requests for clarification of factors to be considered in determining whether to grant an exception. See 16.10(2).

In response to public comments critical of two proposed “docks advisory” committees, the authorizing provisions in 16.11 in the Notice of Intended Action have been deleted.

In response to public comments requesting more local officer involvement in the proposed decision-making process, minor changes were made in Rule 16.12.

Subrule 16.25(1), relating to dock management areas, was changed to clarify that use of the docks by members of the public is at their own risk. Subrule 16.27(6) has complementary changes providing for new signs and identifying numbers at dock management area dock sites. Insurance requirements in 16.28(6) were changed to delete the requirement that the DNR be named as an additional insured. Shorewood Hills at Clear Lake was added to the list of dock management areas.

### **NATURAL RESOURCE COMMISSION [571] Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 16, "Docks and other Structures on Public Waters," Iowa Administrative Code.

This rulemaking updates and revises regulation of docks and boat hoists.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 8, 2006 as ARC 5523B. Public hearings were held on November 28, 29 and 30, 2006. Following is a summary of changes made to the Notice of Intended Action.

The adopted rule includes numerous minor changes to clarify the meaning of the rules and fine-tune certain limits and exceptions in response to public comments. Significant changes include substitution of "Class I" permits for the proposed reauthorization of "general permits" for certain docks, and elaboration of criteria for granting certain exceptions.

Public comment on the Notice of Intended Action included a challenge to the Department's authority to reauthorize general permits for docks. In response, new rule 571--16.2(461A,462A) establishes classes of permits, including "Class I" permits in lieu of the proposed reauthorization of "general permits" for certain private docks qualifying as "standard" docks and docks permitted by the U.S. Army Corps of Engineers. Under subrule 16.4(3), owners of "standard" docks eligible for a Class I permit have until July 1, 2008, to obtain a permit, which will be issued for a maximum period of five years without administrative fee. Under rule 571--16.5(461A,462A), a dock permit issued by the U.S. Army Corps of Engineers pursuant to an agreement with the Department for a joint application review process shall serve in place of a Class I permit issued by the Department.

The proposed general permit for docks managed by cities and counties from frontage owned by them is replaced by authorization in rule 571--16.6(461A,462A) for issuance of Class II permits to cities and counties without fee for a term up to five years.

Criteria for permitting "nonstandard" private docks (Class III) and commercial docks (Class IV) are changed from the Notice of Intended Action by allowing greater density of boat hoists (one hoist per 10 feet of shoreline rather than one hoist per 12.5 feet of shoreline). (See subrules 16.7(3) and 16.8(3).) Also, a minor clarification concerning conformity with local zoning requirements is included in subrule 16.8(4).

"Grandfather" exceptions authorizing renewal of permits for lawfully existing docks and hoists that do not conform to "offset" requirements are changed to address the circumstance where two adjoining owners desire to place their boat hoists next to one another without leaving a gap at the property line. (See subrule 16.9(2).)

Exceptions from certain limits or requirements for proposed new docks, hoists or slips, are changed in response to public requests for clarification of factors to be considered in determining whether to grant an exception. (See subrule 16.10(2).)

In response to public comments critical of two proposed “docks advisory” committees, the authorizing provisions in rule 571--16.11(461A,462A) in the Notice of Intended Action have been deleted.

In response to public comments requesting more local officer involvement in the proposed decision-making process, minor changes were made in rule 571--16.12(461A,462A).

Subrule 16.25(1), relating to dock management areas, was changed to clarify that use of the docks by members of the public is done so at their own risk. Subrule 16.27(6) has complementary changes providing for new signs and identifying numbers at dock management area dock sites. Insurance requirements in 16.28(6) were changed to delete the requirement that the DNR be named as an additional insured. Shorewood Hills at Clear Lake was added to the list of dock management areas.

These rules are intended to implement Iowa Code sections 461A.4, 461A.11, 461A.18, 462A.27 and 462A.32.

This rule making shall become effective April 4, 2007.

The following amendment is adopted.

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Rescind 571—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16  
DOCKS AND OTHER STRUCTURES  
ON PUBLIC WATERS

**571—16.1(461A,462A) Definitions.**

“Artificial lake” means all river impoundments and all other impoundments of water to which the public has a right of access from land or from a navigable stream inlet. Examples are Lake Panorama, Lake Delhi, Lake Nashua, and Lake Macbride.

“Boat” means “watercraft” as defined in Iowa Code section 462A.2(41).

“Boat hoist” or “lift” means a structure placed in the water or below the ordinary high-water mark for boat storage, including platforms for storage of personal watercraft. For the purposes of this chapter, a boat hoist that is designed to store multiple small vessels such as personal watercraft or one-person sailboats shall be treated as a single hoist.

“Catwalk” means a platform no more than four feet wide installed to provide access from a dock to a moored boat or boat hoist.

“Commercial dock” means a dock used as part of a business, including a dock extending from residential property if one or more mooring spaces at the dock are rented for a fee. A dock maintenance fee charged by a property owners’ association to its members is not a basis to classify a dock as commercial. This definition is not applicable to docks in dock management areas or concession operations administered by the department.

“Commission” means the natural resource commission.

“Common dock” means a dock serving two or more adjoining shoreline properties.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources or the director’s designee.

“Dock” means a platform–type structure extending from shoreline property over a public water body, including but not limited to platforms that provide access to boats moored on the water body.

“Dock management area” or “DMA” means an area designated by the department in the bed of a water body adjoining a state park, wildlife management area, or recreation area or adjoining a strip of land that was dedicated to the public and is subject to the jurisdiction of the department pursuant to Iowa Code section 461A.11, second unnumbered paragraph. A dock management area includes an area adjoining public land from which docks extend as designated by the department.

“Impoundment” means a body of water formed by constructing a dam across a waterway.

“Public dock” means a dock constructed and maintained to provide public access from public land to a water body.

“Public land” means land that is owned by the state, a city, or a county or land that has been dedicated for public access to a public water body.

“Public water body” is a water body to which the public has a right of access.

“Shoreline property” means a parcel of property adjoining (littoral to) a lake or adjoining (riparian to) a river or other navigable stream.

“Slip” means a mooring space, usually adjacent to a dock, sometimes accessed by a catwalk.

“Water body” means a river or other stream, a natural lake, an artificial lake or other impoundment, or an excavated pit.

## DIVISION I PRIVATE, COMMERCIAL AND PUBLIC DOCKS

**571—16.2(461A,462A) Scope of division and classes of permits.** Permits are required for docks on all water bodies open to the public for boating or other recreational uses. This division governs permits for all types of docks except docks in “dock management areas” designated by the DNR. Classes of permits are designated as follows: “Class I” permits authorize “standard” private docks, other private docks in specified areas, and docks permitted by the U.S. Army Corps of Engineers; “Class II” permits authorize docks that are managed by a city or county and extend from shoreline property owned by the city or county; “Class III” permits authorize “nonstandard” private docks; “Class IV” permits authorize commercial docks. A dock that involves placement of fill or construction of a permanent structure in a state-owned public water body also requires a construction permit issued under 571 Chapter 13.

**571—16.3(461A,462A) Standard requirements for all docks.** All docks are subject to the following requirements:

**16.3(1)** Adverse impacts on aquatic ecosystem. All docks, hoists, slips and related structures shall be located, sized, configured, constructed and installed to limit their adverse impacts on the aquatic ecosystem. In areas of sensitive aquatic habitat, docks and hoists shall be located, configured, constructed and installed to minimize harm to aquatic habitat. Other restrictions may be placed on docks that are in a state protected waters area as necessary to protect the natural features of the designated area.

**16.3(2)** Adverse impacts on public access for recreational use. A dock shall not be configured to enclose an area of a public water body and create a private water area or otherwise adversely affect public recreational use of the water body. Where walking or wading parallel to the shore



below the ordinary high-water mark would be physically practical except for the obstruction created by a dock, the dock owner shall not prevent a person from stepping on or over the dock to bypass the obstruction.

**16.3(3) Location and offsets.** To the extent practical, a dock and boat hoists shall be placed near the center of the shoreline property frontage and installed perpendicular to the shoreline to maximize offsets from neighboring properties. Each dock, hoist, moored vessel and other permitted structure shall be offset a minimum of 5 feet from an adjoining property line and 5 feet from the projection of a line perpendicular from the shoreline at the common boundary with adjoining shoreline property. A minimum gap of 10 feet shall be maintained between adjoining docks (including “L” or “T” or catwalk segments), hoists or moored boats. Where projection of a line perpendicular from the shoreline is impractical, it is the intent of this rule that a 10-foot gap be maintained in a manner that is equitable to each adjoining shoreline property owner.

**16.3(4) Length.** A dock shall not extend farther from the water’s edge than the distance necessary for reasonable access to the water body in relation to characteristics of the water body in the vicinity of the dock site and the impacts on the water body and other users. Access to maintain one or more boats in water with a minimum depth of 3 feet shall be considered sufficient access.

**16.3(5) Display of 911 address.** Each dock owner shall display the 911 address, including the street and city, assigned to the property served by the dock. The owner of a dock authorized by an individual permit shall also display the dock permit number. The information shall be displayed in block letters and numbers at least 1 inch high in a color contrasting with the background, on the water end of the dock, facing away from shore, and shall be plainly visible.

**16.3(6) Winter removal.** Each dock must be removed from public waters before December 15 of each year and shall not be reinstalled until the following spring unless the removal requirement is waived by a condition of a dock permit or by 16.18(461A,462A).

**16.3(7) No enclosure of private docks.** Private docks and docks in dock management areas shall not be enclosed by roofs or sides. Hoists may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft.

**16.3(8) Materials and flotation specifications.** Every new floating structure authorized by this chapter shall use flotation methods and devices of a type constructed of low density, closed-cell rigid plastic foam; high impact polyethylene fiberglass material; wood products pressure-treated with a product approved by the United States Environmental Protection Agency for aquatic use; or other inert materials to provide flotation. Synthetic (such as plastic or fiberglass) or metal containers not originally manufactured as flotation devices may be used as dock flotation devices if they have been cleaned of any product residue, sealed and watertight, and filled with a closed-cell rigid plastic foam.

**16.3(9) Flow of water.** All docks shall be constructed and placed in a manner that allows the free flow of water beneath them.

**16.3(10) Excavation, fill and aquatic vegetation removal prohibited.** No bed material may be excavated or fill placed, and no aquatic vegetation may be removed below the ordinary high-water mark of a water body in association with construction of a dock unless excavation, placement of fill, or aquatic vegetation removal is specifically authorized by a construction permit issued under 571—Chapter 13.

**16.3(11) Storage, use, and dispensing of fuel.** The storage, use, and dispensing of any fuel on a dock on or over a public water body or adjacent public land shall be in compliance with Iowa Code chapter 101 and administrative rules that implement chapter 101.

**16.3(12)** Electrical service. Any electrical service on or leading to any dock used for storage or dispensing of fuel must comply with the National Electrical Code, latest revision. All electrical service leading to docks shall include ground fault circuit interrupter protection.

**16.3(13)** Anchoring of river docks. All river docks must be securely anchored to prevent them from becoming floating hazards during times of high river flows. The riparian owner is responsible for dock retrieval and removal when necessary to prevent or remove a navigation hazard.

**16.3(14)** Access for inspection. A dock, boat hoist, raft, platform, mooring buoy or any other structure on a public water body may be physically inspected at any time by a representative of the department as needed to determine whether it was placed and maintained in a manner consistent with the requirements in these rules or with a permit issued under these rules.

**571—16.4(461A,462A) Class I permits for standard private docks.** This rule establishes criteria and procedures for Class I permits for private docks qualifying as “standard” docks under criteria in this rule and for certain other docks in areas listed in this rule.

**16.4(1)** Criteria for “standard” docks A Class I permit for a standard dock may authorize a total of one dock and up to two hoists serving one residence. It may authorize a “common dock” serving two or more residences located on adjoining shoreline properties. A common dock may include up to three hoists per shoreline property and be eligible for a Class I dock permit. The dock must extend from shoreline property on which one or more of the residences are located and must meet all of the following criteria:

a. Dock length limits. A dock on a natural lake may extend the greater of 100 feet from the water’s edge or far enough so that the outer 50 feet of the dock is in 3 feet of water up to a maximum of 300 feet. These lengths shall be measured from the water’s edge when the dock is installed. A dock on an artificial lake or river may extend the lesser of 50 feet from the water’s edge or one-fourth of the width of the waterway measured from the water’s edge when the dock is installed. However, the department may give notice to a property owner that a shorter dock length is necessary to avoid interference with navigation or an adjoining property owner’s access. The width of an “L” or “T” segment at the outer end of a dock shall be included in measuring the length of the dock.

b. Width and configuration of docks on natural lakes. A dock on a natural lake shall have no more than one “L” or “T” segment. The total length of the “L” or “T” segment facing opposite from shore shall not be greater than 20 feet including the width of the dock. The total area of the “L” or “T” segment shall not exceed 200 square feet. That part of the main dock forming the center of a “T” segment or an extension of an “L” segment shall be included in measuring the area of the “T” or “L” segment. No other part of the dock may be more than 6 feet wide. Catwalks shall be at least 2 feet wide and considered as part of the dock. Catwalks shall be limited in length as in an “L” or “T” segment of the dock construction and shall not extend beyond the width of the hoist, except that a catwalk may be extended around the hoist for access to the hoist.

c. Compliance with standard requirements. The dock and associated hoists must comply with the standard requirements in 16.3(461A,462A) for all docks.

d. Other structures not authorized. A Class I permit does not authorize placement of any other anchored or floating structure, such as a swim raft.

**16.4(2)** Class I permits for private docks in specified other areas. This subrule authorizes issuance of Class I permits for private docks in certain areas where circumstances, including



narrowness of the water areas specified below, require different dock and hoist configurations. In the following areas, docks that fail to comply with the 10-foot “gap” requirement in 16.3(3) but that meet other standard dock requirements in 16.3(461A,462A) are eligible for a Class I permit, unless they obstruct navigation or an adjoining property owner’s access: canals off West Okoboji Lake; Okoboji Harbor; inside harbor of Harbourage at Clear Lake; Venetian Village Canal at Clear Lake; Cottage Reserve on Lake Macbride; Lake Panorama; canals at Lake Manawa; and Lake Delhi.

**16.4(3)** Procedures for issuance of Class I dock permits. The owner of a standard dock eligible for a Class I permit under the criteria in 16.4(1) or a dock in an area specified in 16.4(2) shall have until July 1, 2008, to apply for a Class I dock permit on an application form supplied by the department. The applicant shall certify that the dock meets the criteria for a Class I permit. The department shall approve the application based on the applicant’s certification and shall assign a permit number which may be a series of numbers or letters, or a combination of numbers and letters. The applicant shall be responsible to obtain reflective stickers with the permit numbers and letters and attach them to the end of the dock facing opposite from the shoreline together with the 911 address as provided in 16.3(5). Class I dock permits authorized by this rule may be issued for terms up to five years and shall be issued without fee. A Class I dock permit shall be valid only while dock and hoists comply with the criteria for a Class I permit.

**571—16.5(461A,462A) Class I permits for docks permitted by Corps of Engineers.** This rule authorizes issuance of Class I permits for docks authorized by permits issued by the U.S. Army Corps of Engineers on waters under joint jurisdiction of the department and the U.S. Army Corps of Engineers. By agreement between the Corps of Engineers and the department, a dock permit issued by the Corps of Engineers pursuant to a joint boat dock application review process shall serve in place of a Class I permit issued by the department.

**571—16.6(461A,462A) Class II permits for docks authorized by cities and counties that own or otherwise control shoreline property.** This rule authorizes issuance of a Class II dock permit to a city or county for docks authorized by a city or county to extend from public land owned or controlled by the city or county. A Class II permit may include all docks and hoists authorized by the city or county on one water body. The Class II dock permit shall require that all docks comply with the standard requirements in 16.3(461A,462A). Class II permits shall include exceptions as needed to provide continuing authorization for docks and hoists that were lawfully installed and maintained before the effective date of certain requirements as set forth in this rule. All docks on a natural lake may extend the greater of 100 feet from the water’s edge or far enough so that the outer 80 feet of the dock is in 3 feet of water up to a maximum of 300 feet. These lengths shall be measured from the water’s edge when the dock is installed. The city or county authorizing maintenance of a dock and boat hoists shall be responsible for enforcing the standard requirements and length limit. The department reserves authority to determine whether the requirements of 16.3(461A,462A) and the length limit are met upon complaint of a person who claims that a public or private right is adversely affected by a permitted dock. If the department determines that a dock or hoist must be moved or removed from the water body because of an adverse effect, the department shall issue an administrative order to the city or county that is authorizing maintenance or use of the dock and to the person who is maintaining or using the dock. Issuance of the administrative order shall trigger a right of the city or county

and the affected person to a contested case. If shoreline property is public land but there is uncertainty concerning the relationship between the authority of the city or county and the authority of the department, the Class II permit shall include a recital concerning the relative authorities of the department and the permittee. Class II permits shall be issued without fee and may be issued for a term up to five years.

**571—16.7(461A,462A) Class III permits for “nonstandard” private docks.** All private docks that are not authorized by Class I or Class II permits shall require a Class III dock permit. In determining whether to issue a Class III permit for a private dock or to condition the permit by denying an application in part, the department shall apply the following criteria:

**16.7(1)** A Class III private dock permit shall require docks or hoists to be in compliance with requirements in 16.3(461A, 462A), except as provided in 16.9(461A,462A) and 16.10(461A,462A).

**16.7(2)** An individual private dock on a natural lake may be permitted by a Class III permit to extend 100 feet from the water’s edge or far enough so that the outer 80 feet of the dock is in 3 feet of water when the dock is installed. These lengths shall be measured from the water’s edge when the dock is installed. If the water level declines after installation, additional segments may be installed during the season as needed to maintain 80 feet of dock in 3 feet of water, up to a maximum length of 300 feet from the water’s edge. The maximum permitted length of an individual private dock on an artificial lake or river is the lesser of 50 feet from the water’s edge or one-fourth of the width of the waterway measured from the water’s edge at normal water levels. The width of an “L” or “T” segment at the outer end of a dock shall be included in measuring the length of the dock.

**16.7(3)** The maximum number of hoists authorized by a Class III permit for an individual private dock is one hoist for every 10 feet of shoreline.

**16.7(4)** A Class III permit for an individual private dock on a natural lake shall not authorize “L” or “T” segments containing more than a total of 240 square feet including the area of the adjoining parts of the main dock.

**16.7(5)** An individual private dock may be exempted by permit condition from the winter removal requirement in appropriate circumstances under criteria in 16.18(461A,462A).

**571—16.8(461A,462A) Class IV permits for commercial docks.** In determining whether to issue a Class IV permit for a commercial dock or to condition the permit by denying an application in part, the department shall apply the following criteria:

**16.8(1)** A commercial dock permit shall require docks or hoists to be in compliance with requirements in 16.3(461A,462A), except as provided in 16.9(461A,462A) and 16.10(461A,462A). Greater offsets may be required for new commercial docks or hoists if needed to minimize boat traffic and congestion that spills over in front of other shoreline property not owned or controlled by the applicant.

**16.8(2)** A commercial dock on a natural lake may be permitted to extend a maximum of 300 feet from the water’s edge. However, the applicant must provide justification for a length greater than 150 feet and demonstrate that there are no appropriate alternatives available.

**16.8(3)** The maximum number of hoists or slips authorized by a permit for a commercial dock is one hoist or slip for every 10 feet of shoreline. This limit shall not apply where a business operated on the shoreline property primarily involves boat sales, rentals, storage, or other boat services. In calculating the hoist limit, “courtesy” hoists shall not be counted if they are provided

without charge to boaters to temporarily moor their boats while they go ashore to access services at a business on the shoreline property.

**16.8(4)** A permit for a commercial dock shall not be issued or the permit will include restrictions as needed to prevent uses of the dock that would be incompatible with zoning of the shoreline property from which the dock extends (including special use exceptions or variances recognized by the local governing body). However, a change in local zoning ordinance or termination of a local variance or special use exception shall not automatically be a ground for the department to revoke or refuse to renew a dock permit.

**16.8(5)** Authorization for roofs or sides on commercial docks or slips may be restricted as needed to minimize adverse visual impact on owners of other property and the public.

**16.8(6)** Each mooring site (slip) shall be marked by an identifying number or letter, in block style at least 3 inches high, of contrasting color, and located uniformly near the vessel's bow.

**571—16.9(461A,462A) Exceptions for renewal of Class III and IV permits for existing docks.** This rule provides certain exceptions from length limits, hoist limits and platform size limits for docks and hoists that lawfully existed before the effective date of the limits. Exceptions from offset requirements are separately listed in subrule 16.9(2).

**16.9(1)** Class III and IV permits shall include exceptions as needed to provide continuing authorization for docks and hoists that were lawfully installed and maintained before the effective date of certain requirements as set forth in this rule. Permits shall include exceptions to the length limits in 16.7(2) and 16.8(2) for docks up to 300 feet long that were lawfully installed and maintained before the effective date of the length limits. Permits shall include exceptions to the hoist limit in 16.7(3) and 16.8(3), and to the platform size limit in 16.7(4) for docks and hoists that were lawfully installed and maintained before the effective date of the limits.

**16.9(2)** An exception to the offset requirements in 16.3(3) shall be granted if the applicant can satisfy all three of the following requirements: The lack of offset on one side of the property is compensated for by a larger offset on the other side of the property; the applicant provides the department with a copy of the written consent of each affected adjoining property owner or an affidavit attesting that the affected adjacent property owner named in the affidavit has verbally given the applicant consent for the requested exception, or provides adequate documentation that the adjoining shoreline parcel is burdened by restrictive covenants, easements, or other valid use restrictions which impose on the owner of the parcel an obligation to tolerate docks and hoists that would otherwise violate the offset or gap requirements in 16.3(3); and the applicant demonstrates that no other dock or hoist configuration is physically practical.

**571—16.10(461A,462A) Exceptions in Class III and IV permits for new structures.** An application for a permit for a new dock, hoist or slip may include a request for an exception under this rule from certain limits or requirements imposed by these rules.

**16.10(1)** Exceptions from length limits, hoist limits or platform size limits. For proposed new docks, slips or hoists, Class III and IV permits may include exceptions to the length limit in 16.7(2), the hoist limit in 16.7(3) and 16.8(3), and the platform size limit in 16.7(4) if the applicant justifies the need for an exception and proposes a configuration of dock(s) and hoists that minimizes adverse impacts on the water body and other users.

**16.10(2)** Factors for deciding requests for exceptions. In determining whether to allow a requested exception to a length limit, hoist limit or platform size limit, in whole or in part, the department shall consider each of the following factors:

- a. The extent to which the request exceeds the applicable limit;
- b. The extent to which the requested exception or a reduced exception would cause adverse impacts on the aquatic ecosystem or use of adjoining public or private property;
- c. The extent to which the requested use would provide some type of access by members of the public;
- d. Whether living units to be benefited by an exception were constructed before July 1, 2006;
- e. Whether denial of an exception would result in loss of property value that was based on a reasonable expectation of water access including storage of boats on the water body;
- f. Whether the exception was authorized by a previous permit;
- g. Whether the exception includes space for vessels without motors including paddle-only vessels and single-hulled sailboats less than 12 feet long.

**16.10(3)** Exceptions from offset requirements. An exception to the offset requirements in 16.3(3) may be granted under the circumstances listed in 16.9(461A,462A).

**571—16.11(461A,462A)** Reserved.

**571—16.12(461A,462A) Initial decision and right of appeal.** The decision on an application for a Class II, III and IV permit shall be made by the department's district law enforcement supervisor or designee except that the district law enforcement supervisor shall issue an initial decision in the form of a permit or a permit denial on a request for an exception under 16.10(461A,462A). If the district law enforcement supervisor decides to deny the permit or to issue a permit with specific conditions that deny the application in part, the written decision shall include notice of the applicant's right to request a contested case under 571—Chapter 7. If a request for an exception under 16.10(461A,462A) is disapproved by the district law enforcement supervisor, the applicant's request for a contested case may include a request a variance or waiver under the provisions of Iowa Code section 17A.9A and 571—Chapter 11.

**571—16.13(461A,462A) Application forms and administrative fees.**

**16.13(1)** The applicant for a Class II, III or IV permit shall submit to the department a completed application on the applicable DNR dock permit application form. If the applicant for a Class III or IV permit is not the owner of the shoreline property from which the dock extends, the applicant shall identify the contractual relationship between the applicant and each property owner and shall submit as part of the application the written consent from each owner. The application form shall be accompanied by accurate plans and drawings as specified on the form. The drawings shall accurately show the size and location of each boat hoist, slip, platform, catwalk, buoy, or other structure to be maintained in front of the shoreline property. Docks in front of non-adjoining shoreline properties on the same water body owned by the same person or legal entity may be included in one application. An application for renewal of a permit for an existing dock and hoists must specifically describe each requested modification. The applicant shall submit an administrative fee with the application. The completed application form and payment shall be submitted to the department's district law enforcement office in the district where the proposed dock is located. The application will be assigned to a conservation officer to investigate.

**16.13(2)** The Class III permit application fee shall be \$125 for one or more individual private docks. The Class IV permit application fee shall be \$250 for one or more commercial docks. A Class III permittee shall pay an annual administrative fee of \$50 for each hoist or slip in excess

of a total of four hoists or slips. A Class IV permittee shall pay an annual administrative fee of \$50 for each hoist or slip in excess of a total of six hoists or slips, except for each hoist or slip designated in the permit as “courtesy” mooring for customers and affixed with a sign identifying it as a courtesy hoist or slip. The hoist/slip fee shall be due on March 1 of each year or whenever a permit is modified by adding a hoist or slip. Any fees owed to the department shall be paid in full prior to the installation of any portion of an individual private dock or commercial dock and before a boat is placed in a hoist or slip. The department may waive the permit application fee if the application is for a minor modification of an existing permit without an extension of the term of the permit.

**571—16.14(461A,462A)** Reserved.

**571—16.15 and 16.16** Reserved.

**571—16.17(461A,462A) Duration and transferability of permits; refund of application fees; suspension, modification, or revocation of permits; complaint investigation; property line location.**

**16.17(1)** Duration and transferability of dock permits; administrative fee refunds. Each dock permit shall be issued for a term of five years unless a shorter term is needed due to specified circumstances. The administrative fee paid with an application is nonrefundable unless the application is withdrawn before the department incurs administrative expense in investigating the application. A dock permit is automatically transferable to a new owner of the shoreline property upon request of the new owner.

**16.17(2)** Suspension, modification, or revocation of permits. A dock permit may be modified, suspended, or revoked, in whole or in part, by written notice served in compliance with Iowa Code section 17A.18, if the director determines that the dock is a hazard to other users of the water body, that a violation of any terms or conditions of the permit has occurred, or that continuation of the permit is contrary to the public interest. Such modification, suspension, or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the modification, suspension, or revocation, the reasons for the action, and any corrective or preventative measures to be taken by the permittee to bring the dock, structure, or activity into compliance. Within 30 days following receipt of the notice of a revocation or modification, or during the course of a suspension, the permittee may request a hearing in order to present information demonstrating that the alleged violation did not occur or that required corrective and preventative measures have been taken, or to present any other information relevant to a decision as to whether the permit should be reinstated, modified, or revoked. The hearing shall be conducted as prescribed by 571—Chapter 7. After completion of the hearing, a final decision will be made concerning the status of the permit. In the event that no hearing is requested, notices of modification and revocation shall remain in effect and suspended permits shall be reinstated, modified, or revoked. These procedures are not intended to limit the authority of a department law enforcement officer to issue a citation for a violation of a provision of Iowa Code chapter 461A or 462A, or a provision in this chapter.

**16.17(3)** Investigation of complaints. Any person adversely affected by a permitted dock or associated boat hoist may request, in writing, an investigation and a hearing to reconsider the permit. Requests for hearings shall specify adverse effects on the complainant and shall be made in accordance with procedures described in 571—Chapter 7.



**16.17(4)** Determining property boundaries. An applicant for a permit, a permittee, and an owner of shoreline property adjoining property of an applicant or permittee are responsible for determining the accurate location of common boundaries of their respective properties.

**571—16.18(461A,462A) Exemptions from winter removal requirement.** This rule provides for exemptions from the general requirement in Iowa Code section 462A.27 that nonpermanent structures be removed on or before December 15 of each year. Docks and other structures subject to destruction or damage by ice movement must be removed. Where a dock may be left in ice without damage to the dock, it must have reflective material visible from all directions to operators of snowmobiles, other motorized machines, or wind-propelled vessels lawfully operated on the frozen surface of the water body. Generally, ice damage is greatest on Iowa's rivers and natural lakes. Docks must be removed by December 15 of each year unless they have the required reflective materials and are specifically exempted by a condition of a dock permit or located in one of the areas listed as follows: artificial lakes; Upper Gar Lake; canals off West Okoboji Lake; Okoboji Harbor; Lazy Lagoon portion of Triboji dock management area; Smith's Bay on West Okoboji Lake; area between the trestle and U.S. Highway 71 bridges on Okoboji lakes; Templar Park on Big Spirit Lake; Venetian Village Canal and Harbourage Inlet on Clear Lake; Casino Bay of Storm Lake; Black Hawk Marina at Black Hawk Lake, and canals off Lake Manawa and Carter Lake. A permit shall not authorize an exception from the winter removal requirement unless the applicant provides adequate documentation that the dock will not be damaged by normal ice movement.

**571—16.19(461A,462A) General conditions of all dock permits.** All dock permits, unless specifically excepted by another provision of this chapter, shall include the following conditions of approval:

**16.19(1)** The permit creates no interests, personal or real, in the real estate below the ordinary high water line nor does it relieve the requirement to obtain federal or local authorization when required by law for such activity. The permit does not authorize the permittee to prevent the public from using areas of the water body adjacent to the permitted structure. However, a lawfully permitted private dock or commercial dock is property of the permittee. Use of the dock is reserved to the permittee and the permittee's invitees, subject to the public right of passage stated in 16.3(2).

**16.19(2)** A permit is valid only while the permittee has the necessary permissions to use the adjoining shoreline property from which the dock projects.

**16.19(3)** The permittee shall not charge a fee for use of the dock or associated structure unless: the permit is for a commercial dock; the fee is expressly authorized by the permit; or the permittee is a homeowners association and the fee is for recovery of expenses incurred in providing access to association members.

**571—16.20(461A,462A) Permit criteria for rafts, platforms, or other structures.** A raft, platform, or other structure maintained on a public water body requires authorization in a permit. The raft, platform, or other structure may not be placed more than 250 feet from the shoreline, shall be equipped with reflectors that are visible from approaching boats and is subject to the winter removal requirement unless specifically exempted by the permit.

**571—16.21 to 16.24** Reserved.

DIVISION II  
DOCK MANAGEMENT AREAS

**571—16.25(461A) Designation or modification of dock management areas.**

**16.25(1)** Purposes and status of dock management areas. The director may designate an area of public land under the commission's jurisdiction and adjoining water as a dock management area. The primary purpose of dock management areas is to accommodate requests for boating access from owners of properties that are close to a water body but do not include riparian or littoral property rights. Dock permittees have priority use of the docks for mooring of vessels. However, the docks may be used by members of the public at their own risk for fishing and emergency mooring when public use does not interfere with the permittee's use. Other uses allowed by the permittee shall be the responsibility of the permittee. The department intends to authorize continuation of all dock management areas existing on June 1, 2006, unless changed circumstances require changes in the size of an existing dock management area.

**16.25(2)** Criteria for designation or enlargement. In designating a dock management area or authorizing enlargement of an existing dock management area, the director shall apply the following criteria:

a. The shoreline property in question shall be public land and shall have been developed and managed for recreational access to water or determined by the department to be suitable for such access.

b. The establishment or enlargement of a dock management area shall not adversely affect other public recreational use of the water body.

c. A dock management area shall not be established or enlarged where depth or bottom configuration is incompatible with the placement of docks.

d. A dock management area shall not be established or enlarged where fish and wildlife habitat, other natural resources or scenic features would be disturbed by the presence of docks.

e. Documentation of need for a new or larger dock management area and the lack of adverse impacts of the proposal must be sufficient to clearly outweigh and overcome a presumption against increasing the number or size of dock management areas.

**571—16.26(461A) Procedures and policies for dock site permits and hoist or slip assignments in dock management areas.** A dock site permit authorizes a person to install and maintain a dock in a designated dock management area. Each permit shall identify the number of hoists or slips to be included for storage of boats at the dock. A separate hoist or slip assignment will be issued for each hoist or slip space at the dock. For purposes of these dock management area rules, "permittee" means the person(s) to whom a dock site permit is issued and the person(s) to whom each hoist or slip assignment is issued. Application forms for dock site permits and hoist or slip assignments in a dock management area will be made available at a nearby DNR office. Dock site permits and hoist or slip assignments shall be available to all members of the public through a selection process. Selection shall be based on the following order of priorities, and a waiting list shall be established that follows the same order of priorities. First priority is for owners of residences adjoining or immediately across a street from the public land; second priority is for owners of other residences within the housing association or subdivision adjoining or immediately across a street from the public land; third priority is for all other Iowa residents; fourth priority is for nonresidents. The order of priorities, changes in the number of residential units per dock site, and changes in the number of vessels per residential

unit will be made effective as existing permits expire. For purposes of these dock management area rules, “residence” means a single residential living unit, which may be a rental unit. Notwithstanding these priorities, if property in the first or second priority category is redeveloped with higher density residential living units, there is no assurance that dock, hoist or slip space will be available to accommodate such increased density before other property included in the first or second priority categories.

**571—16.27(461A) Standard requirements for dock management area docks.** Docks in dock management areas shall conform to the following requirements:

**16.27(1) Occupancy of docks.** At least two residences shall share a dock. The department may require that more residences share a dock if there is a waiting list including people in the first or second priority categories established in 16.26(461A). A maximum of six residences shall share a dock.

**16.27(2) Spacing and alignment.** Dock sites where feasible shall be at least 50 feet apart.

**16.27(3) Dimensions.**

a. Length. A dock may extend the greater of 100 feet from the water’s edge or far enough so that the outer 80 feet of the dock is in 3 feet of water up to a maximum of 300 feet, but the dock shall be no longer than the length for which the applicant provides justification, and the length shall be stated in the permit.

b. Width. Docks shall be at least 4 feet wide and no more than 6 feet wide.

**16.27(4) Configuration.**

a. “L” or “T” segments. A dock shall have no more than one “L” or “T” segment. The total length of the “L” or “T” segment facing opposite from shore shall not be greater than 20 feet including the width of the dock. The total area of the “L” or “T” segment shall not exceed 200 square feet. That part of the main dock forming the center of a “T” segment or an extension of an “L” segment shall be included in measuring the area of the “T” or “L” segment. A smaller platform size limit may be required at locations specified by the department as having limited available space.

b. Catwalks. Catwalks shall be at least 2 feet wide and considered as part of the dock. The length limit for an “L” or “T” segment stated in paragraph “a” shall be applicable to each catwalk. A catwalk shall not extend beyond the width of the hoist.

c. Hoists. A hoist or other boat storage structure shall not be placed adjacent to any “L” or “T” segment of a dock or adjacent to any other part of a dock that is more than 6 feet wide. The hoist shall not exceed 10 feet in width at locations specified by the department as having limited available space.

**16.27(5) Exceptions for certain dock management areas.** Notwithstanding other provisions in this rule, in artificially constructed lagoon or harbor areas, the configuration and dimensions of the docks, catwalks and hoists shall be determined by the department on an individual basis, taking into consideration the physical characteristics of the area, the mooring pattern of boats and public safety. Except at Lake Macbride, the Clear Lake Harbourage and Shorehood Hills, and Lake Odessa, a maximum of two residences, each in accordance with 16.26(461A), shall share a single dock site.

**16.27(6) Display of dock management area sign, DMA name and dock site number.** The end of the dock facing the water shall be marked with the DMA name and dock number as assigned by the department. Each hoist shall also marked with the hoist assignee’s last name and dock site number in two-inch block letters on one of the upright poles. The dock site permittee shall



be responsible to install and maintain a sign provided by the DNR at the landward entrance to the dock. The sign shall state that the dock is privately constructed; it shall include a caution to members of the public to “use at your own risk”, and it shall include the statement “no diving” with a drawing of a person diving in a circle with a diagonal slash through it.

**16.27(7)** Other requirements. Standard requirements found in 16.3(461A,462A) shall apply to all docks in a dock management area except requirements relating to property line offsets and display of information.

**571—16.28(461A) Dock management area permit restrictions and conditions.** The following conditions and restrictions shall apply to docks in a dock management area.

**16.28(1)** Use of dock for mooring. Only the persons named as permittees shall have use of the dock for mooring. All vessels must be registered to the permittees and listed on the dock management area permit. A dock site permit or hoist/slip assignment may authorize an exception to allow a vessel of a tenant of the permittee’s residential rental unit.

**16.28(2)** Equitable sharing of dock costs. Permittees shall agree on the equitable sharing of the cost of construction, installation, maintenance and removal of the dock and any other component of the dock.

**16.28(3)** Number of assignments allowed. Only one dock assignment may be allocated to a residence.

**16.28(4)** Number of hoists allowed. Each permittee may be limited to one hoist for one vessel. The number of hoists and vessels for each permittee should be limited, especially when there is a waiting list that includes people in the first or second priority category established in 16.26(461A).

**16.28(5)** Nontransferability of dock permits and privileges. Dock permits and hoist or slip assignments shall not be transferred, assigned or conveyed by the permittee to any other person.

**16.28(6)** Liability insurance. Prior to constructing a dock or installing hoists, the dock site permittee shall provide proof of current liability insurance policy in the amount of \$1 million.

**16.28(7)** Winter storage of docks, catwalks and hoists on public property. Winter storage of docks, catwalks and hoists on public property shall not be allowed unless specifically authorized by a dock site permit or hoist assignment. Docks, hoists and catwalks shall be stored at locations determined by the state parks bureau district supervisor as appropriate for an individual dock management area. A dock, catwalk or hoist stored on public land without authorization from the department may be removed by the department at the owner’s expense.

**16.28(8)** Land use restrictions. Nothing shall be constructed or placed on public land adjacent to any dock in a dock management area under this rule unless the construction or placement is a necessary appurtenance to the dock as determined by the director.

**16.28(9)** Expiration of permits. The term of a dock site permit and a hoist or slip assignment shall not exceed five years. Renewals shall be requested on a current application form.

**16.28(10)** Cancellation for nonuse. A dock site permit or hoist/slip assignment may be canceled for nonuse in order to provide space for applicants on a waiting list.

**16.28(11)** Other permit restrictions and conditions. All restrictions and conditions in 16.19(461A,462A), except subrule 16.19(3), shall apply to all docks in a dock management area.

**571—16.29(461A) Fees for docks in dock management areas.** Payment of the annual dock site permit fee shall be made upon application. Payment of the annual hoist or slip fee shall be made upon application for the hoist or slip assignment. These fees may be paid in a lump sum in

advance for the term of the permit or assignment. Failure to pay the annual fee by April 1 of any year may result in revocation or cancellation of the permit or assignment. Payment of any dock management area fee under this rule shall be made to the department of natural resources as specified in the permit. Annual fees are as follows:

	Dock Fee	Hoist Fee
Beed's Lake	\$100	\$50
Black Hawk Lake Marina	\$200	\$50
Black Hawk Lake/Denison	\$200	\$50
Black Hawk North Shore	\$200	\$50
Blue Lake	\$100	\$50
Clear Lake Ventura Heights	\$250	\$50
Clear Lake Harborage	\$600	\$100 - hoist or slip fee
Clear Lake Shorewood Hills	\$600	\$100 – hoist or slip fee
Clear Lake North Shore	\$250	\$50
East Okoboji Beach	\$250	\$50
Triboji Lakeshore	\$250	\$50
Triboji Lazy Lagoon	\$250	\$50 - hoist or slip fee
Pillsbury Point	\$250	\$50
Lower Pine Lake	\$100	\$50
Lake Macbride The Pines	\$600	\$100 - slip fee
Lake Macbride Lakecrest	\$600	\$100 - slip fee
Rice Lake	\$100	\$50
Union Grove	\$100	\$50
Lake Odessa	\$100	\$25

**571—16.30(461A) Suspension, modification or revocation of dock management area permits.** A dock management area permit may be modified, suspended, or revoked, in whole or in part, by written notice, if the director determines that the dock is not safe, that a violation of any terms or conditions of the permit or these rules has occurred, or that continuation of the permit is not in the public interest. Such modification, suspension, or revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the modification, suspension, or revocation, the reasons for the action, and any corrective or preventative measures to be taken by the permittee to bring the dock, structure, or activity into compliance. Within 30 days following receipt of the notice of a revocation or modification, or during the course of a suspension, the permittee may file a notice of appeal, requesting a contested case pursuant to 571—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be reinstated.

**571—16.31(461A) Persons affected by DMA permit—hearing request.** Any person who claims that riparian or littoral property rights are adversely affected by a DMA dock site permit may request, in writing, a hearing to reconsider the permit. Requests for hearings shall show cause and shall be made in accordance with procedures described in 571—Chapter 7.

These rules are intended to implement Iowa Code sections 461A.4, 461A.11, 461A.18, 462A.27 and 462A.32.

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Date

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Richard A. Leopold, Director

Ken Herring acknowledged and thanked the stakeholders and staff who contributed many hours of review, debate, research, collaboration and attending meetings in the effort of updating the dock rules. He especially commended the efforts of Mike Smith, Lowell Joslin, Rich Jordet, Dick Bowman, Kevin Pape, Diane Ford-Shivvers and Megan Wisecup, as well as the conservation officers in the lakes area of the state.

Commissioner Francisco, on behalf of the Commission, added thanks to Mr. Herring and the other staff who worked so diligently on the rules.

Mr. Herring reviewed the past history leading to the commission's request that staff review the dock rules. A power point presentation noting the different classes for docks was shown. He reviewed the standard regulations for each of the Class I, II, III, and IV dock permits and also noted some exceptions being allowed.

Herring reviewed that the rules have centered on the equity of the charge for the docks. They also protect the lakes from over developing docks and hoists by striking a reasonable balance between riparian owners, ensures the public's right to use and enjoy the lakes, sets clear and equitable expectations for docks and hoists for everyone, sets the stage to capture the administrative costs of administering the permits, respects the importance of commercial marinas, and provides for individual nuances through exceptions.

Mike Smith explained that the rules will become effective upon filing of the rule but noted that those requiring a general permit that have not needed a permit with the existing rules, will have a 2008 deadline for securing their permit.

*Motion was made by Commissioner Moore to approve Final Rule—Chapter 16, Docks and Other Structures on Public Waters. Seconded by Commissioner Kramer.*

*Motion was made by Commissioner Kramer to amend the motion by adding to 16.4(2) the words "offset or" before the words 10-foot "gap" requirement, and in 16.4(3), remove the word "reflective", and also add the words "Lake Delhi" to 16.18. Seconded by Commissioner Moore.*

Mike Smith related that it has been determined that the amendment to add Lake Delhi to 16.18 is not needed because Lake Delhi is an artificial lake and artificial lakes are already listed.

*Commissioner Kramer retracted the portion of the amendment regarding Lake Delhi.*

### **Phil Petersen**

Phil Petersen, Okoboji Protective Association, commented that he had earlier distributed his comments to the commissioners in support of the dock rules. He related that if the number of hoists is not controlled, the lakes will become a parking lot for hoists. He said more and more

condos are being built that would like to have all the hoists they want without limit. Petersen added that commercial slips should pay the people of Iowa more than \$2 - \$4 per slip for which they in turn charge \$2,500 to \$9,000. Mr. Petersen said the rules are important to the lakes of Iowa and noted the support from the Okoboji Protective Association, East Okoboji Lakes Improvement Corporation, Spirit Lake Protective Association and the Okoboji Yacht Club Sailing School.

Mr. Petersen said there was a lot of discussion at the dock meetings about the fees and whether the rules will be enforced. He said he was assured that if these dock rules are adopted they would be enforced and that the dock fees would be used for this. Petersen said he has a DNR document where the fees and revenues were estimated and for northwest Iowa, mainly the Iowa Great Lakes, the estimate was there would be one and one-half water patrol officers hired to do enforcement work on these dock rules. He said he and Ken Herring have exchanged a lot of e-mails and that they agree in principle that these dock fees are going to be used for enforcement. However, he said it is Herring's opinion that he doesn't have to necessarily hire any additional people to support these dock rules. He said he feels it is a legal requirement that the money received from these fees be spent on dock enforcement administration.

### **Chip Hughes**

Chip Hughes, Lake Delhi Recreation Association, commented that he is seeking better definitions and better understanding of the dock rules. He explained that Lake Delhi is an artificial lake and it appears to be included in the winterization exemption. Mr. Hughes expressed gratitude of staff for discussing their particular dock issues with him and said most of his concerns have been addressed.

Mr. Hughes said their Association understands the need for personnel to enforce the dock regulations but they prefer to keep their personnel for enforcing their rules and to enforce safety on their lake. He said they will do whatever they can to minimize DNR's need to hire additional people. Mr. Hughes added that the Lake Delhi Recreation Association appreciates working with the commission and department and asked that they be included in some type of notification if there are lake issues.

### **Dale Entner**

Dale Entner, Clear Lake, spoke regarding the dock rules. He expressed appreciation of Ken Herring and his staff for their efforts on the dock rules. He said they were assured when the meetings started that money was not an issue, but as it went along we found that money is an issue and it is more and more of an issue. After several meetings the Clear Lake people and some from Okoboji made a fair and reasonable proposal to DNR to raise the fees from \$2 a slip to \$10. He said that it was raised from \$2 to \$50 which is not fair or realistic. Entner said that the increase will be passed on to our customers and he fears it will not take long before they quit boating. He added that he thinks the rules are headed in the right direction and that the work between all the stakeholders and the agency is fairly acceptable.

Mr. Entner stated that another issue being overlooked is the fee for all docks. He said that at the meetings there was unanimous consensus that every dock should pay a fee with no exceptions but they were told that could not be done because it was too much work. Now they will all receive a permit for their docks, but they are not being charged a fee.

**Kirk Kraft**

Kirk Kraft, Clear Lake, Iowa, congratulated Director Rich Leopold on his appointment as DNR Director. He talked about the commitment of the citizens of Clear Lake to ensure that Clear Lake is preserved for people to use and enjoy. Mr. Kraft related that the proposed dock rules were the result of long torturous meetings but consensus was reached and he supports the dock rules as currently proposed. He said all parties made concessions on the rule. He asked to continue to work with staff on certain exemptions or changes as development and preservation on Clear Lake continues.

Commissioner Francisco thanked Mr. Kraft and the Clear Lake partners for their work on improving the lake.

Commissioner Francisco noted that on the floats there is a requirement for reflectors, but questioned whether the reflectors would be adequate in the summertime.

Lowell Joslin commented that there was a lot of discussion about reflectors. He said some constituents brought this issue forward and said that the over wintering of boats was a safety problem for snowmobiles and ATVs on the ice.

Commissioner Duncan complimented Ken Herring, Lowell Joslin and their staff for the monumental task of updating the dock rules. He said there are a lot of commercial interests who care only about their own narrow economic interest and exhibit little concern about the over all quality of the water or the boating experience for people in the state of Iowa. Duncan said he really applauds the staff for the work they have done.

Commissioner Francisco related that there have been a lot of studies done on lakeshore development and fisheries quality in Minnesota and Wisconsin which shows that the more lakeshore development you have, the lower your fisheries quality. He said these rules will be a major help for other resources in addition to just visual and safety issues.

Commissioner Francisco read the following letter written to fellow commissioners by Joan Schneider. "As I am unable to attend the February 8, 2007 NRC Meeting, I want it known that I cast my vote "AYE" for agenda item #11—Final Rule, Chapter 16. The Department, local staff and the focus groups have worked long and hard to come up with this rule change. We must keep in mind the big picture. Our natural resources statewide will be affected by this change and all for the benefit of our citizens."

*Motion to approve Final Rule—Chapter 16, as amended carried unanimously.*

**FINAL RULE APPROVED**

**GENERAL DISCUSSION**

Kim Francisco commented on a newspaper article about deer contraceptives. He asked that an informational discussion be prepared on that subject, including what it will do to antlers, whether or not overdoses is a problem, will it be an annual event, etc.

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Linda Hanson related that it will be necessary to hold an electronic meeting in March. She explained that bids will be opened following the regular NRC meeting on the Honey Creek Resort State Park. Those bids are scheduled to be opened March 14 for Phase I Package 2 which

will be for the lodge and the cabin. Consensus was to tentatively plan on a telephone meeting for March 15.

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Phil Petersen, representing the Water Safety Council, Okoboji Protective Association, spoke about the use of water safety funds. He said the DNR has about \$4 million available in funds for water safety and fighting invasive species. He added that by one estimate when working on the dock rules, they found that 67% of the dock revenue would come from northwest Iowa, basically Iowa Great Lakes, so they feel that 67% of that \$4 million revenue should be spent on the Iowa Great Lakes, which would amount to about \$3 million. Currently about \$200,000 is being spent there, indicating there is a considerable gap between the water safety revenue received by the DNR and what is actually being spent on the Iowa Great Lakes. Petersen said he will continue working with Ken Herring and will get the Director involved with this issue.

### NEXT MEETING DATES

The next meeting will be held at the Lake of Three Fires area near Bedford, Iowa.

### ADJOURNMENT

<i>Motion was made by Commissioner Kramer to adjourn the February 8, 2007 NRC meeting. Seconded by Commissioner Moore. Meeting adjourned at 11:05 a.m. .</i>
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Richard A. Leopold, Director

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Joan Schneider, Chairperson

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Elizabeth Garst, Secretary

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